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Paper No. 5

Neil Teitelbaum
Vice President, Intellectual Property
JDS Uniphase Corporation
3000 Merivale Road
Ottawa, Ontario, Canada K2G 6N7

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**OFFICE OF DIRECTOR
GROUP**

In re Application of:

DELISLE *et al.*

Serial No.: 09/838,137

Filed: April 20, 2001

Attorney Docket No.: 10-336 US

DECISION ON PETITION

This is a decision in response to the communication filed February 06, 2003. The communication has been treated as a petition to re-mail the Office action and reset the period for response.

The petition is **DISMISSED**.

A non-final Office action was mailed on July 08, 2002.

Petitioner asserts that counsel did not receive the Office action, and that the Office action was mailed to an old address. Petition further asserts that a "Notice of Customer Number Record Change", indicating an acceptance of a correspondence address was changed mailed on June 08, 2001, was received. Petitioner also asserts that a "Request for Customer Number Data Change" was filed on March 14, 2002, which changed the correspondence address to the above address. To support the above assertions, petitioner provides a copy of the "Notice of Customer Number Record Change" and a copy of the printed fax machine confirmation for the "Request for Customer Number Data Change".

A review of the written record indicates that the Office action was mailed to the correspondence address provided by the applicant in the Declaration deposited with the application papers filed on April 20, 2001, which address does not correspond to petitioner's current address. A further review of the record reveal that a Customer Number was never associated with the application. As a result, the changes made with respect to the Customer Number were never applied to the instant application

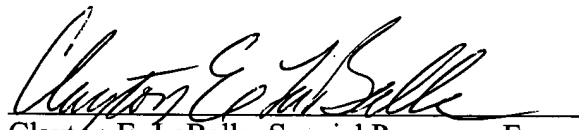
37 CFR § 1.33 states that "when filing an application, a correspondence address must be set forth in either an application data sheet (§ 1.76), or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing."

In this case, the Customer Number is merely provided at the bottom of the transmittal sheet with no clear indication that the Customer Number was to be associated with the instant application.

Since the Office action was properly mailed the correspondence address of record and petitioner has not made the requisite showing that the Office action was not received at the correspondence address of record, the petition is dismissed.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mailing date of this decision.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (703) 308-0519.



Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components